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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,129	12/29/2000	Russell E. Henning	INTL-0501-US (P10387)	9172
21906	7590	09/14/2004	EXAMINER	
TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024			RAO, ANAND SHASHIKANT	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/751,129

Applicant(s)

HENNING, RUSSELL E.

Examiner

Andy S. Rao

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-28, 30-32.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

ANDY RAO
PRIMARY EXAMINER
Andy S. Rao
Primary Examiner
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Continuation of 5. does NOT place the application in condition for allowance because: see Examiner's attachment entitled "Response to Request for Reconsideration".

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Response to Request for Reconsideration

1. Applicant's arguments filed with respect to claims 1-28, and 30-32 as filed on 8/23/04 have been fully considered but they are not persuasive.

2. Claims 1-2, 6-8, 19-23, 25-28, 30-32 (amended) remain rejected under 35 U.S.C. 103(a) as being unpatentable over Sun et al., (hereinafter referred to as "Sun") in view of Shiimoto.

3. Claims 3-5, 9, and 24 (amended) remain rejected under 35 U.S.C. 103(a) as being unpatentable over Sun et al., (hereinafter referred to as "Sun") in view of Shiimoto as applied to claims 1 and 22 above, and further in view of Webb.

4. Claims 10-18 (amended) remain rejected under 35 U.S.C. 103(a) as being unpatentable over Sun et al., (hereinafter referred to as "Sun") in view of Shiimoto and Webb.

The Applicants present two arguments contending the Examiner's final rejection of claims 1-2, 6-8, 19-23, 25-28, 30-32 (previously presented) under 35 U.S.C. 103(a) as being unpatentable over Sun et al., (hereinafter referred to as "Sun") in view of Shiimoto, the rejection of claims 3-5, 9, and 24 (previously presented) under 35 U.S.C. 103(a) as being unpatentable over Sun et al., (hereinafter referred to as "Sun") in view of Shiimoto as applied to claims 1 and 22 above, and further in view of Webb, and rejection of claims 10-18 (previously presented) under 35 U.S.C. 103(a) as being unpatentable over Sun et al., (hereinafter referred to as "Sun") in view of Shiimoto and Webb, as was set forth in the final Office Action mailed on 8/09/2004. However, after careful consideration of the arguments presented, the Examiner must respectfully disagree for the reasons that follow.

Firstly, the Applicants contend that the final Office Action fails to address the added "bit pattern..." limitation (Request for Reconsideration- 8/23/04: page 2, lines 1-4) . The Examiner

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respectfully disagrees. It is noted that the Examiner didn't list the newly added limitation in the listing of the elements as addressed by the primary Sun reference. However, in making the combination with Sugimoto, the "bit pattern..." limitation was addressed and incorporated into Sun since that was an integral part of the distinction between the first and second error resilience techniques (Final Office Action: page 5, lines 9-13). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Accordingly, the Examiner notes that claim 19 was properly addressed in the final Office Action.

Secondly, the Applicants argue that Sugimoto fails disclose that B or P type frames are subject to different error resilience techniques (Request for Reconsideration- 8/23/04: page 2, lines 4-10). The Examiner strongly disagrees. It is noted that the citation in question (Sugimoto: column 8, lines 65-67; column 9, lines 1-10) discloses separating the frames into I, B, and P frames and adding error correcting codes of higher error correcting ability being added to the particular type frames. The Examiner notes that this section deals with "such hierarchical encoding of error correcting codes..." and thus since a hierarchy is established (Sugimoto: column 8, lines 58-67), that means that differing techniques are suggested by the reference. Accordingly, the Examiner maintains that Sugimoto addresses the limitations of claims 11-13.

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Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (703)-305-4813. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S. Kelley can be reached on (703)-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andy S. Rao
Primary Examiner
Art Unit 2613

asr
September 12, 2004

ANDY RAO
PRIMARY EXAMINER

